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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,308	11/19/2003	Stephen D. Wehmeyer	100041-41186	6486
27805	7590	01/14/2005	EXAMINER	
THOMPSON HINE L.L.P. 2000 COURTHOUSE PLAZA , N.E. 10 WEST SECOND STREET DAYTON, OH 45402			CARTER, MONICA SMITH	
			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/717,308	WEHMEYER, STEPHEN D.	
	Examiner	Art Unit	
	Monica S. Carter	3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 September 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 and 17-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-15, 17-19, 23-26 and 35-38 is/are allowed.
- 6) Claim(s) 20-22, 28 and 29 is/are rejected.
- 7) Claim(s) 27 and 30-34 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 20-22, 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Lu ('897).

Lu discloses a photo album comprising a spine (the examiner considers the spine to be the longitudinal edge of 21 adjacent the covers – see diagram below); a pair of covers (22, 23) pivotally coupled to the opposite edges of the spine (see figure 2 and column 2, lines 11-13); a storage component (21) located on an outer surface of the spine defining a storage cavity (214) for receiving loose articles (25), the storage component including a wall (wherein the examiner considers the wall to be the longitudinal surface opposite the edge 21) generally spaced away from the spine such that the storage cavity is generally located between the wall and the spine and wherein the wall includes an access opening (214 – same as the storage cavity); and a door (26) pivotally coupled to the storage compartment (as seen in an alternative embodiment in figure 4, the access door 36 has one side pivoted to one of the edges which confine an opening 35 – see column 2, lines 45-54) and being pivotable between a closed position and an open position (as seen in figure 2).

Regarding claim 21, Lu discloses the door being pivotable about an axis that extends generally parallel to the spine as disclosed above.

Regarding claims 22 and 28, Lu discloses the binder as set forth above. Regarding the spine being generally flat and planar, the Lu discloses the spine being *generally* flat and planar (as seen in figure 2). Note: see attached figure for position of end walls, side wall and pivot axis.

Regarding claim 29, Lu discloses the storage compartment extending generally the entire length of the spine (as seen in figure 2).

Allowable Subject Matter

3. Claims 1-15, 17-19, 23-26 and 35-38 are allowed.
4. Claims 27 and 30-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed September 20, 2004 have been fully considered but they are not persuasive.

Applicant incorrectly stated that claim 20 has been amended to specify that the spine is generally flat and planar; however, as broadly claimed, the spine of Lu is *generally* flat and planar as seen in figure 2.

The examiner maintains that Lu discloses the claimed binder having a storage compartment located on an outer surface of the spine of the binder as set forth in the above rejections.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica S. Carter whose telephone number is (571) 272-4475. The examiner can normally be reached on Monday-Thursday (6:00 AM - 3:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, A. L. Wellington can be reached on (571) 272-4483. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 11, 2005

Monica S. Carter
MONICA S. CARTER
PRIMARY EXAMINER

